

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 15TH JANUARY 2007 / 25TH PAUSHA 1928

Crl.MC.No. 3638 of 2006()

Crime No.131/2006 of the Museum Police Station

PETITIONER: ACCUSED NO. 1 TO 4.

1. BINO MATHEW, G.V .30, TC 11/778,
VAYAL ROAD, PLAMOOD, PATTOM.
2. P.V.MATHEW, G.V. 30, TC 11/778,
VAYAL ROAD, PLAMOOD, PATTOM.
3. THANKAMMA MATHEW, G.V. 30,
T.C. 11/778, VAYAL ROAD, PLAMOOD,
PATTOM.
4. BINTA LAL, G.V. 30, TC 11/778,
VAYAL ROAD, PLAMOOD, PATTOM.

BY ADV. SRI.PIRAPPANCODE V.S.SUDHIR

RESPONDENTS: COMPLAINANT AND DEFACTO COMPLAINANT.

1. STATE OF KERALA, REPRESENTED BY THE
PUBLIC PROSECUTOR, OFFICE OF THE ADVOCATE GENERAL,
HIGH COURT BUILDING, ERNAKULAM, KOCHI 31.
2. LINCY MATHEW, D/O.MATHEW,
MADUKKAKUZHI, KARINILAM P.O.
KARINILAM P.O. PULINKUNNU,
MUNDAKKAYAM.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD
ON 15/01/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R.BASANT, J

Crl.M.C.No.3638 of 2006

Dated this the 15th day of January, 2007

ORDER

The 1st petitioner is the accused in a prosecution under Section 498 A I.P.C. Initially allegations were raised against accused 2, 3 & 4 also. But it is submitted that the final report has been filed only against the 1st petitioner. Investigation was conducted by the police. Final report has already been filed. Cognizance has been taken by the learned Magistrate. The 1st petitioner has entered appearance and has been enlarged on bail also.

2. The 1st petitioner wanted the proceedings against him to be quashed on the assertion that the disputes have been settled between the parties. The 2nd respondent/the defacto complainant/the divorced wife of the 1st petitioner has not entered appearance before this Court, nor has the composition been reported to this Court. In these circumstances, I must assume that there is no harmonious settlement of the disputes between the indictee/the 1st petitioner and the 2nd respondent/the defacto complainant. The offence under Section 498 A I.P.C is not compoundable. Of course, invoking the dictum in **B.S.Joshy v. State of Haryana** [A.I.R (2003) SC 1386], in an appropriate case, proceedings can be quashed. But when the defacto complainant has not settled and compromised the disputes,

there can be no question of invoking the dictum in **B.S.Joshy v. State of Haryana** also.

3. The 1st petitioner has a further grievance that because of the pendency of the prosecution, he is not able to get his passport renewed. Sufficient time was granted to enable the 1st petitioner to file a joint compromise statement along with the 2nd respondent. But those opportunities could not be availed of by the 1st petitioner. In these circumstances, there can be no question of powers under Section 482 Cr.P.C being invoked. This Crl.M.C deserves to be and does hereby dismissed.

4. The learned counsel for the petitioners finally prays that there may be a direction to the learned Magistrate to dispose of the case against the 1st petitioner as expeditiously as possible. The 1st petitioner's interest do suffer because of his inability to get his passport renewed. In fact, the matter has been settled also and the 2nd respondent, if she is summoned to appear before the court in criminal case, will be forced to reveal the settlement/composition, it is urged. There may be a direction for expeditious disposal of C.C.NO.145 of 2006 pending before the learned Chief Judicial Magistrate, Trivandrum. I am satisfied, that such a direction can be issued in the peculiar facts and circumstances of this case. The learned Magistrate shall dispose of the case within a period of 3

months from the date on which a copy of this order is placed before the learned Magistrate.

5. Hand over a copy of this order to the learned counsel for the petitioner forthwith.

(R.BASANT, JUDGE)

rtr/-